

# House File 628 - Introduced

HOUSE FILE \_\_\_\_\_  
BY HORBACH

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act relating to a surviving spouse's elective share involving  
2 a revocable trust and including an effective and retroactive  
3 applicability provision.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
5 TLSB 2300HH 82  
6 rh/cf/24

PAG LIN

1 1 Section 1. Section 633.237, subsection 2, Code 2007, is  
1 2 amended to read as follows:  
1 3 2. Following the death of a settlor of a revocable trust,  
1 4 the trustee of such revocable trust who is not the spouse  
1 5 shall cause to be served a written notice upon the surviving  
1 6 spouse pursuant to section 633.40, subsection 5, notifying the  
1 7 surviving spouse that unless, within four months after service  
1 8 of the notice, the spouse files an election with the trustee  
1 9 electing the share as set forth in section 633.236 and  
1 10 sections ~~633.238~~ 633.239 through 633.246, the spouse shall be  
1 11 deemed to take under the terms of the revocable trust. If,  
1 12 within the four-month period following service of the notice,  
1 13 an affidavit is filed setting forth that the surviving spouse  
1 14 is incapable of making the election and does not have a  
1 15 conservator, the trustee shall make application to the court  
1 16 for an order pursuant to section 633.244.  
1 17 Sec. 2. Section 633.238, subsection 1, paragraph d, Code  
1 18 2007, is amended by striking the paragraph.  
1 19 Sec. 3. Section 633.238, subsection 2, Code 2007, is  
1 20 amended to read as follows:  
1 21 2. The elective share described in this section shall be  
1 22 in lieu of any property the spouse would otherwise receive  
1 23 under the last will and testament of the decedent, through  
1 24 intestacy, ~~or under the terms of a revocable trust.~~  
1 25 Sec. 4. EFFECTIVE AND RETROACTIVE APPLICABILITY DATE.  
1 26 This Act, being deemed of immediate importance, takes effect  
1 27 upon enactment and applies to all estates of decedents dying  
1 28 on or after September 25, 2003.

### EXPLANATION

1 30 This bill relates to a surviving spouse's elective share  
1 31 involving a revocable trust.  
1 32 Current law provides that the assets held in a revocable  
1 33 trust created by a deceased spouse during the deceased  
1 34 spouse's lifetime can be included in a surviving spouse's  
1 35 statutory share following the surviving spouse's election  
2 1 against the will of the decedent spouse pursuant to Code  
2 2 section 633.238. The bill provides that such assets held in a  
2 3 revocable trust shall not be subject to a surviving spouse's  
2 4 elective share when the spouse elects to take against the  
2 5 deceased spouse's will.  
2 6 The bill takes effect upon enactment and applies to all  
2 7 estates of decedents dying on or after September 25, 2003.  
2 8 LSB 2300HH 82  
2 9 rh:rj/cf/24